

Appl. No. 09/839,638
Response dated February 10, 2004
Reply to Office Action of September 10, 2003
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REMARKS

This Response is responsive to the Office Action dated September 10, 2003.
Applicant has not added or amended any claims. Claims 10-15 are pending.

Claim Rejection Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 10-15 under 35 U.S.C. § 102(e) as being anticipated by Anderson et al. (U.S. Patent Application Publication 2002/0137014 A1):

35 U.S.C. § 102(e), which is the basis for all pending claim rejections, provides:

A person shall be entitled to a patent unless

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language... (emphasis added)

As demonstrated by the attached Declaration, the Anderson reference was not filed before the invention by Applicants. The Anderson reference claims priority to U.S. Provisional Application Serial No. 60/273,734 and to U.S. Provisional Application No. 60/273,733, both filed March 6, 2001. As shown by the attached Declaration, the invention which is the subject of the present application was conceived prior to March 6, 2001.

Moreover, as shown by the attached Declaration, the invention as recited in independent claims 10 and 14 was actually reduced to practice prior to March 6, 2001. Therefore, the Anderson reference is not prior art against the pending claims under 35 U.S.C. § 102(e).

The Anderson reference was the only reference relied upon by the Examiner. Because the Anderson reference is not prior art against claims 10-15, claims 10-15 are in condition for allowance.

FEB. 10. 2004 4:53PM

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CONCLUSION

Claims 10-15 in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date: 02/10/04

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